IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR
&
THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 5TH DECEMBER 2006 / 14TH AGRAHAYANA 1928

WA.No. 2118 of 2005(B)

AGAINST THE ORDER IN WPC.28281/2005 Dated 05/10/2005
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APPELLANT: PETITIONERS IN WP.
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1. K.S.SONY, SECRETARY,
THIRUMARADY GRAMA PANCHAYATH,
KOOTHATTUKULAM, ERNAKULAM DISTRICT.

2. K.PREMKUMAR, SECRETARY,
MUTHUKULAM GRAMA PANCHAYATH,
ALAPPUZHA DISTRICT.

3. P.A.ANUJAN, SECRETARY,
RANNI GRAMA PANCHAYATH, RANNI,
PATHANAMTHITTA DISTRICT.

4. C.P.SAJEEVAN, SECRETARY,
CHITTARIPPARAMBU GRAMA PANCHAYATH,
KANNUR DISTRICT.

5. B.ABDUL FATHAH, SECRETARY,
MAYYIL GRAMA PANCHAYATH, MAYYIL,
KANNUR DISTRICT.

BY ADV. SRI.ELVIN PETER P.J.
SRI.ELVIN PETER P.J.
SRI.S.RAMESH
SRI.P.N.SANTHOSH
SRI.NAVEEN.T
SRI.T.G.SUNIL (PRANAVAM)
SRI.C.X.ANTONY BENEDICT

RESPONDENTS: RESPONDENTS.

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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, LOCAL SELF GOVERNMENT DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR OF PANCHAYATHS, THIRUVANANTHAPURAM.

3. P.D.JOSHY, HEAD CLERK, KUTHIATHODU GRAMA PANCHAYATH, ALAPPUZHA DISTRICT.

BY ADV. SMT.V.P.SEEMANDINI
SMT.S.KARTHIKA

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 05/12/2006, ALONG WITH WA NO. 2322 OF 2005 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.A.ABDUL GAFOOR & K.R. UDAYABHANU, JJ.

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W.A.NOS.2118 & 2322 OF 2005

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DATED THIS THE 5TH DAY OF DECEMBER 2006

JUDGMENT

Abdul Gafoor,J.

These appeals are filed against the interim orders passed by a learned Single Judge in W.P.C.Nos.28528 & 28281/2005 wherein reversions of the appellants have been challenged. The learned Single Judge did not grant stay of reversions, but made it clear that such reversion shall be subject to result of the writ petitions. The appellants/writ petitioners have carried the matter in these appeals seeking for stay of reversion. When reversions are not stayed, exercising the discretion vested in the learned Single Judge and in case the writ petitions finally allowed, they can be

restored to the status quo ante or granted adequate compensation as if they had not been reverted, such discretion cannot be stated to be unjustified. In this regard, conclusion No.2 reached in the decision of this Court in **K.S.Das v. State of Kerala,[1992(2)KLT 358(F.B.)]** may be noticed. It reads:

> *"But this does not mean that the Division Bench hearing the appeal against such `orders' will have to admit the appeal or have to modify the impugned order or set it aside the same in every case. There is difference between the question whether an appeal lies to a Division Bench and as to the scope of interference. Normally, discretionary orders are not interfered with unless the impugned orders are without jurisdiction, contrary to law, or are perverse, and they also cause serious prejudice to the parties in such a manner that it might be difficult to restore the status quo ante or grant adequate compensation. The idea is to provide an internal remedy in such cases without*

compelling the parties to go all the way to the Supreme Court under Article 136 of the Constitution of India or increase the burden of that court unnecessarily."

In the light of this decision, the interim order passed in exercise of the discretion of the learned single Judge cannot be interfered as if the original petitions are allowed, the appellants can be restored to their eligible positions with necessary benefit. Hence, the writ appeals are dismissed. We make it clear that in case the writ petitions are allowed, the appellants are entitled to all pay and allowances as if they were not reverted.

Sd/-

K.A.ABDULGAFOOR

JUDGE

Sd/-

K.R.UDAYABHANU,
JUDGE

ks. **TRUE COPY**

P.S.TO JUDGE